

DMB:MEH:slg:2000V00753

ORIGINAL

18
12/23/00
JL

FILED
HARRISBURG, PA

DEC 27 2000

MARY E. D'ANDREA, CLERK
Per 2/18
DEPT. CLERK

M. ASH-SHARIEF AL'ASKARI,
Plaintiff

v.

KATHLEEN HAWKES, et al.,
Defendants

Civil No. 1:CV-00-1449
(Judge Caldwell)
(Magistrate Judge Smyser)

MOTION FOR ENLARGEMENT OF TIME

Defendants ask the Court for a fourteen-day enlargement of time, pursuant to Fed. R. Civ. P. 6(b), in which to file their reply brief in support of defendants' motion to dismiss and for summary judgment. Defendants state the following in support thereof:

1. Plaintiff, M. Ash-Sharief Al'Askari, is an inmate incarcerated at the Federal Correctional Institution Allenwood in White Deer, Pennsylvania.

2. The complaint is a Bivens action against Bureau of Prisons' officials: Viola Hursh, Correctional Counselor; Kathleen Hawk-Sawyer, Director; Douglas S. Goldring, Attorney; and Robert Zimany, Discipline Hearing Officer. Al'Askari alleged that the defendants violated his constitutional rights. Specifically, he alleged that his access to the courts was impermissibly

prejudiced; and that two incident reports were improperly substantiated by the Discipline Hearing Officer.

3. Defendants filed a motion to dismiss and for summary judgment and supporting brief on November 9 and November 22, 2000, respectively. On November 30, 2000, the Court granted defendants' motion for leave to file a statement of facts nunc pro tunc. On December 12, 2000, Al'Askari opposed defendants' motion.

4. In order to appropriately respond to the allegations in Al'Askari's opposition brief, the undersigned requested litigative assistance from agency counsel at FCI Allenwood. Specifically, Al'Askari alleges that defendant Hursh would not assist in the preparation of an informal administrative remedy request.

5. However, the undersigned has been informed that defendant Hursh is on vacation and will not be returning until January 2, 2001. Upon her return, agency counsel at FCI Allenwood will be in trial and will not be able to prepare the materials requested until the week of January 8, 2001.

6. It is believed that the Bureau of Prisons will be able to provide the additional materials and that the undersigned will be able to submit defendants' reply brief on or before January 10, 2001.

7. Defendants submit that plaintiff will not be prejudiced by this enlargement of time as it will allow the

Bureau of Prisons and the undersigned additional time in which to prepare a reply brief which is thorough and complete in all respects.

WHEREFORE, the defendants request a fourteen-day enlargement of time until January 10, 2001, in which to file their reply brief in support of their motion to dismiss and for summary judgment. Counsel certifies that he has not sought the concurrence of plaintiff because the plaintiff is a prisoner proceeding pro se. M.D. Pa. Local Rule 7.1.

Respectfully submitted,

DAVID M. BARASCH
United States Attorney

Matthew Haggerty /PK
MATTHEW E. HAGGERTY
Assistant U.S. Attorney
SHELLEY L. GRANT
Paralegal Specialist
217 Federal Building
225 Walnut Street
Post Office Box 11754
Harrisburg, PA 17108

Dated: December 27, 2000

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

M. ASH-SHARIEF AL'ASKARI, :
Plaintiff :
v. : Civil No. 1:CV-00-1449
(Judge Caldwell)
KATHLEEN HAWKES, et al., : (Magistrate Judge Smyser)
Defendants :

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.


That on December 27, 2000, she served a copy of the attached

MOTION FOR ENLARGEMENT OF TIME

by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Harrisburg, Pennsylvania.

Addressee:

M. Ash-Sharief Al'Askari
Reg. No. 34819-066
FCI Allenwood
P.O. Box 2000
White Deer, PA 17887


SHELLEY L. GRANT
Paralegal Specialist